

Technical Guidance

Pesticides Act and Ontario Regulation 63/09 Agriculture

May 2011

Purpose

This technical guidance provides regulatory information related to agriculture. Ontario's cosmetic pesticides ban took effect April 22, 2009. The requirements of the ban are detailed in the Pesticides Act, which was amended by the Cosmetic Pesticides Ban Act, 2008 and in Ontario Regulation 63/09 (O. Reg. 63/09).

Classification of pesticides

A pesticide product must be registered by Health Canada's Pest Management Regulatory Agency and classified by the Ministry of the Environment (MOE) to be sold and used in Ontario (please refer to s.6 of the Pesticides Act and s.9 of O. Reg. 63/09). Products must be used according to label directions and for purposes allowed under the ban.

As set out in subsection 4(5) of O. Reg. 63/09, Ontario has established a pesticide classification system consisting of eleven classes under provincial legislation as set out below.

- Class 1 pesticides are products intended for manufacturing purposes
- Class 2, 3 and 4 pesticides are restricted or commercial products
- Class 5 and 6 pesticides are domestic products intended for household use
- Class 7 pesticides are controlled sale products (domestic or restricted)
- Class 8 pesticides are domestic products that are banned for sale and use
- Class 9 pesticides are ingredients in products for use only under exceptions to the ban
- Class 10 pesticides are ingredients in products for the poisonous plant exception
- Class 11 pesticides are ingredients in products for cosmetic uses under the ban

Agricultural Use Exception

There is an exception in the Pesticides Act to the cosmetic pesticides ban for the use of Class 9 pesticides for uses related to [agriculture](#) by a farmer.

"[Farmer](#)" is defined in section 1 of O. Reg. 63/09 as an individual who owns an agricultural operation or who operates an agricultural operation on a regular

basis. More than one individual may, at the same time, operate an agricultural operation.

What is an Agricultural Operation?

An [agricultural operation](#) is a business and means an agricultural, aquacultural or horticultural operation and includes any of the following activities done for the purposes of any of those operations:

- Growing, producing or raising farm animals;
- The production of agricultural crops, including greenhouse crops, maple syrup, mushrooms, nursery stock, tobacco, trees and turf grass, and any additional agricultural crops prescribed by the regulations made under the Nutrient Management Act, 2002;
- The production of eggs, cream and milk;
- The operation of agricultural machinery and equipment;
- The processing by a farmer of the products produced primarily from the farmer's agricultural operation;
- Activities that are a necessary but ancillary part of an agricultural operation such as the use of transport vehicles or storage containers or maintenance of a shelterbelt for the purposes of the agricultural operation;
- The management of materials containing nutrients for farm purposes; or
- The production of wood from a farm woodlot, if at least one of the activities described in paragraphs 1 to 7 is carried out on the property where the farm woodlot is located.

The following activities are included in agricultural operations:

- The production of wood from a farm woodlot that is located on the same property where at least one of the other activities (see paragraphs 1-7) described in the definition of "agricultural operation" is carried out;
- The growing of Christmas trees or sod as an agricultural crop; or
- Research facilities where crops are produced or farm animals are grown, produced or raised (includes only that area of the research facility where activities are done for the purposes of an agricultural operation).

Vegetation control related to an agricultural operation may include areas such as:

- Around buildings storing grain or grain bins to protect grain from being contaminated by weed seeds; or
- Around buildings housing farm equipment to deter rodent pests.

Other examples of agricultural operations where Class 9 pesticides may be used and the limitations of that use include:

- Horse racing tracks, equestrian or riding stables but limited to the land around the facility where feed is stored, feed is grown, on and along the perimeter of a turf or dirt track or training areas but only if horses are stabled, groomed, fed and pastured on site for several days or more.

- Racetracks where horses are brought in to race the night before or day of the race are not considered an agricultural operation;
- A zoo, wildlife or game animal sanctuary but limited to land around facilities where feed is stored or feed is grown or animals are pastured; or
 - A property where livestock is housed on a permanent basis for such purposes as petting zoos/farms and pony rides but limited to land around facilities where feed is stored or grown or animals are pastured.

What is not an Agricultural Operation?

The following activities are not included in the definition of “agricultural operation”:

- Production primarily for use or consumption by members of the household of the owner or operator of the agricultural operation;
- Production primarily for the purposes of a pastime or recreation;
- Production related to the growing of trees in a Crown forest;
- Production related to the growing of plants in a park, cemetery, on a lawn or similar location where the plants are grown primarily for display purposes; or
- Production related to the growing of agricultural crops in a park, on a property used primarily for residential purposes or in a garden located in a public space.

The following persons are not considered to be farmers as the operation described is not an agricultural operation:

- A person raising a few chickens, other farm animals or animal by-products for the purpose of his/her own consumption or as a pastime or selling them;
- A person who owns a horse or other farm animal as a pet;
- A person growing vegetables, fruit or berries for the purpose of his/her own consumption;
- A person selling vegetables, fruit or berries grown as a pastime to neighbours, at flea markets or a roadside stand; or
- A person who only grows trees for the purpose of wood or fibre production.

Pesticide Use Around the Farm House and Lawn

Farmers are not excepted from the ban when using pesticides for cosmetic purposes such as for maintaining lawns and gardens around the farm house, vegetation control on paths, driveways and parking areas which are not part of an agricultural operation. There are no exceptions to the ban for pest infestations (insects, fungi or weeds) on lawns, gardens and other outdoor areas.

Pesticide products with an ingredient in Class 11 (biopesticides and certain lower risk pesticides) may be used for cosmetic purposes to manage weeds, insects

and plant diseases; however, consideration should be given to alternative control methods such as cutting/mowing of vegetation.

Compliance and Enforcement

To report non-compliance of pesticide use, please contact your [MOE District Office](#) during regular business hours. After business hours, call the MOE's Pollution Hotline at 1-866-MOE-TIPS (1-866-663-8477).

For more information

Visit the MOE's website for additional information on topics such as:

- [Pesticide classes and database](#)

A number of fact sheets and suggestions on caring for lawns and gardens are available on the [MOE's website](#) for specific audiences.

Direct questions about the cosmetic pesticides ban to the MOE's Public Information Centre at 1-800-565-4923 or 416-325-4000 (press 0 to talk to an information officer).

This technical guidance is for information only and is not legal advice. Interested parties are advised to refer to the Pesticides Act and O. Reg. 63/09 to address specific circumstances.

PIBS 7659